

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. CR 99-00062 CRB
No. C 03-01790 CRB

Plaintiff,

CERTIFICATE OF APPEALABILITY

v.

FRANCISCO MENDOZA-PRADO,

Defendant.

Because Petitioner has made a “substantial showing of the denial of a constitutional right” and because the issues presented in his petition for writ of habeas are “debatable among jurists of reason,” his request for a certificate of appealability is GRANTED.

Lambright v. Stewart, 220 F.3d 1022, 1025 (9th Cir. 2000 (quoting 28 U.S.C. 2253(c)(2))).

The following questions are hereby certified for appeal:

(1) whether this Court erred in holding that Petitioner made an inadequate showing of prejudice to warrant habeas relief on his claim of ineffective assistance of counsel; and

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1 (2) whether this Court erred in determining that an evidentiary hearing was
2 unnecessary to determine whether Petitioner was prejudiced by his
3 attorney's alleged failure to inform him of the possibility that the
4 government would file a superseding indictment against him.

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6 **IT IS SO ORDERED.**

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9 Dated: March 19, 2007



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE